INTERSTATE COMMERCE — CONTROL BY STATES — CONSTITUTIONALITY OF INTRASTATE RAILROAD RATES. — The railroad of the plaintiff company was located wholly within the state of Virginia, but was operated almost entirely for interstate business. An order of the state corporation commission fixed a maximum passenger rate of two and one-half cents a mile for all railroads within the state. At this rate, the plaintiff's intrastate traffic would not make a fair return on the capital invested, but the earnings from interstate business were sufficient to afford a fair return on the total capital. The plaintiff had been voluntarily doing its passenger business in Virginia, both intrastate and interstate, at an average of 2.35 cents per mile. The plaintiff appealed from the order of the commission. *Held*, that the unreasonableness of the rate fixed by the commission is not established. *Washington Southern Ry. Co.* v. *Commonwealth*, 71 S. E. 539 (Va.).

A state has no power to establish railroad rates applying to interstate transportation. *Wabash, St. Louis & Pacific Ry. Co.* v. *Illinois*, 118 U. S. 557. It cannot fix intrastate rates which do not provide a fair return to the railroad for the use of its property. *Chicago, Milwaukee & St. Paul Ry. Co.* v. *Minnesota*, 134 U. S. 418; *Reagan* v. *Farmers' Loan & Trust Co.*, 154 U. S. 362. From a combination of these propositions it follows that justification for a confiscatory intrastate rate cannot be found in the large profits of interstate business. *Smyth* v. *Ames*, 169 U. S. 466. See 12 HARV. L. REV. 50. The principal case declares that this settled law cannot apply where the intrastate business is insubstantial and incidental, it being impracticable to determine on what proportion of the whole capital it should earn a fair return. But it has been held that, in determining rates, capital simultaneously used in both classes of business should be apportioned between them in proportion to respective revenue. *St. Louis & S. F. R. Co.* v. *Hadley*, 168 Fed. 317; *Missouri, K. & T. Ry. Co.* v. *Love*, 177 Fed. 493. Apparently that method should have been employed in this case. The result, however, may be right, on the ground that the company did not furnish sufficient data for making the computation. *Steenerson* v. *Great Northern Ry. Co.*, 69 Minn. 353, 72 N. W. 713. The court relies on the adoption of similar rates by the railroad, but, except to strengthen the presumption of reasonableness, that cannot affect the constitutionality of the rates ordered by the commission.

MORTGAGES — EQUITABLE MORTGAGES — POSSESSION OF MORTGAGOR AS NOTICE. — A. gave B. a deed of conveyance of land, absolute in form. They agreed at the time that B. should reconvey to A. when A. repaid B. for discharging certain incumbrances on the land. A. remained in actual possession. B. mortgaged the land to C. *Held*, that A.'s possession is notice to C. of A.'s interest in the land. *Teal* v. *Scandinavian-American Bank*, 131 N. W. 486 (Minn.).

It is well settled that a deed of conveyance, absolute on its face, but intended by the parties as security for a debt, is in equity a mortgage. *Oberdorfer* v. *White*, 78 S. W. 436 (Ky.). It is also a general rule that possession is constructive notice of the possessor's interest in the land and puts prospective dealers with the title on inquiry. *Niles* v. *Cooper*, 98 Minn. 39, 107 N. W. 744. The principal case applies this rule to a grantor remaining in possession after a full conveyance. But the decided majority of cases and the better reason are *contra*. *Exon* v. *Dancke*, 24 Or. 110, 32 Pac. 1045. The effect of possession being to put a prospective purchaser on inquiry, it would seem that any inquiry suggested in the principal case is sufficiently answered by the possessor's own deed to B. *Eylar* v. *Eylar*, 60 Tex. 315. The natural presumption in such a case is that the grantor's possession is merely permissive and perfectly consistent with title in the grantee. *Brigham* v. *Thompson*, 12 Tex. Civ. App. 562. Since the principal case does not present any circumstances rebutting that presumption, it gives too great effect to the grantor's continuance in possession.